

## PROCEEDINGS OF THE STURGIS CITY COUNCIL

The Common Council of the City of Sturgis met in regular session starting at 6:30 p.m. on Monday, September 16, 2013 at the Erskine Building. Present: Mayor Mark Carstensen, Alderpersons, Jason Anderson, Mike Bachand, Branden Bestgen, David Hersrud (arrived at 6:43 pm), Marcia Johnston, Tim Potts, and Ronald Waterland. Also present City Manager Daniel Ainslie and City Attorney Greg Barnier. Absent: Kelly Vasknetz.

Mayor Mark Carstensen led everyone in the Pledge of Allegiance.

Motion by Waterland, second by Potts and carried with all members present voting yes to approve the agenda.

### Announcements:

Tracy Thacker with Neighborworks Dakota Home Resources updated the council on the group work program that took place July 8-12. There were 31 work sites in Sturgis, 186 volunteers, and an investment of time and materials of \$55,465. She thanked the City for the cash contribution and the help from staff during that week. Neighborworks America is doing another project which consists of surveying 200 residents on different issues. They plan to rehab another 100 sites within the City in the future.

Councilors Potts, Waterland, Bachand and Bestgen thanked the Public Works Department, the Parks Department and the Rally Department for all their work on the Super Moto event this last weekend. Councilor Bachand thanked Loud American Roadhouse, especially Mark Bruch, for his participation in clean up. Councilor Potts thanked Tammy Bohn and Katherine Martel for their work in getting the event to come to Sturgis. Mayor Carstensen also thanked the businesses, City staff, including the Water Department, for their help during the event which he felt was successful.

2013 United Way Day of Caring took place last Thursday with three groups working on projects. Northern Hills Credit Union and First Interstate Bank cleaned 30 monuments at the Bear Butte Cemetery. There were 45 Sturgis Brown High School students that helped clean up Bear Butte Creek. Also, there were 62 volunteers from Black Hills Special Service that helped clean up the Deadman Trail and land south of Exit 32.

### Informational Reports:

Police Chief Jim Bush gave an update on his department:

- Through the end of July, there have been 5491 calls for service compared to 4984 last year.
- The animal shelter, in the months of July and August, had 75 dogs and 46 cats with 451 phone calls and 515 people walking through the door.
- The Rally had 477 contacts (arrests, warnings, tickets etc.) in the 8 days compared to 564 last year.
- The Police Department received a Homeland Security Grant of \$6000 for equipment this year and has applied for a Highway Safety Grant for next year. The Department works closely with ABC and receives grant money from them.
- The Department will be rewriting the Policy and Procedures Manual.

Water Superintendent Dale Olson gave an update on his department:

- The Lazelle Street water project is completed. It came in approximately \$146,000 under budget. The State will be doing the milling and overlay on Lazelle Street.

- On the Phase II water project, the wells are complete; the paperwork on the project has not been finalized yet.
- Mcquire Iron did a rehab on the south water tank this June and also inspected the north water tank and did some spot repairs on it.
- They have been flushing hydrants.
- Discussion was held on fluoride in the water.

City Manager Ainslie reported:

- The 2013 budget is at 67% of the calendar year with General Fund at 63%, Special Sales Tax at 74%, Capital Improvements at 90%, Liquor at 56%, Water at 158%, Wastewater at 54%, Sanitation at 49% and Ambulance at 117%.

Motion by Bestgen, second by Johnston and carried with all members present voting yes to approve the first three items on the consent calendar:

1. Consider approval of the minutes from the September 3, 2013 regular council meeting and the September 9, 2013 special council meeting.
2. Set a public hearing date for October 7, 2013 for a transfer of a Retail on-off sale Malt Beverage & SD Farm Wine License from Fresh Start Convenience Stores to MG Oil dba Corner Pantry, 990 Lazelle.
3. Set a public hearing date of October 7, 2013 for a Zoning Variance for Kent & Heather Kreutz, 1147 4<sup>th</sup> St, for a less then required set back for a garage. Planning & Zoning approved.

Councilor Anderson explained the request from JD Lawson for a setback variance and why it was denied by Planning and Zoning. Motion by Bestgen, second by Waterland and carried with all members present voting yes to approve the fourth item on the consent calendar:

4. Set a public hearing date of October 7, 2013 for a Zoning Variance for JD Lawson, Sturgis RV Park, 1175 W Woodland, for a less then required set back to allow a shelter for motorcycles. Planning & Zoning denied.

Motion by Potts, second by Hersrud and carried with Anderson, Bachand, Bestgen, Hersrud, Johnston, Potts and Waterland voting yes, Carstensen abstaining, to approve the following claims with the exception of **General**- Cetec, \$1189.50, prof fee; Johnston Hardware, \$373.14, supp; **Water**- Cetec, \$1859.85, cap imp; Johnston Hardware, \$183.40, supp; **Wastewater**- Johnston Hardware, \$55.86, repair; **Ambulance**- Johnston Hardware, \$388.65, supp; **Wages** – Ambulance \$21,520.72; Attorney \$2884.62; Auditorium \$; Buildings \$1474.66; Cemetery \$2382.60; City Manager \$4241.92; Community Center \$8097.74; Finance Office \$8544.12; Fire Department \$496.05; Human Resource \$2171.81; Library \$8100.52; Liquor \$4295.04; Mayor and Council \$3333.27; Parks \$11,109.20; Planning & Permitting \$3785.59; Police \$34,601.74; Rally \$3287.68; Recreation \$2467.83; Sanitary Service \$11,030.32; Streets \$8723.03; Wastewater \$6829.95; Water \$13,667.30; Federal Withholding \$15,373.90; FICA \$11,876.07.

**General** – A&B Business, \$215.18, rental, maint; A&J Surplus, \$3.86, repair; Paula Basker, \$25.00, grp insur; BH Finance Officers Assn, \$25.00, other; BH Chemical, \$1859.94, supp; BH Urgent Care, \$156.00, prof fee; Butte Electric, \$445.72, util; Campbell Supply, \$829.96, supp; Mark Carstensen, \$219.79, travel; Caselle, \$527.99, prof fee; CBH Cooperative, \$22,379.73, supp; Cemetery Service, \$648.00, other; Century Business, \$2963.25, prof fee; Chain Saw Center, \$39.85, supp; City of Sturgis Water Dept, \$15,033.82, util; Coca Cola, \$943.25, merch for resale; Community Center Petty Cash, \$8.52, supp; Dakota Backup, \$989.01, prof fee; Dakota Contracting, \$853.47, repair; Dakota Spray Equipment, \$64.00, supp; Digital Paging Co, \$500.00, supp; Double Star Computing, \$511.50, prof fee; Ecolab Pest Eliminator, \$185.42, maint; Epic Outdoor Advertising, \$282.00, supp; European Body Jewels, \$317.50, vendor refund; Eye Lab RX, \$475.00, vendor refund; Fastenal Company, \$25.19, repair; Fedex, \$176.59, supp;

First Interstate Bank, \$2497.95, supp; FSH Communications, \$60.00, util; G&H Distributing, \$128.55, repair; Glover Investments, \$600.00, rental-rally; Hebron Brick, \$137.75, merch for resale; Heiman Fire Equipment, \$723.85, supp; Hills Materials, \$237.51, supp; Inland Truck Parts, \$334.50, repair; J&L Services, \$460.00, supp; JJ Davenports, \$41.25, other; Lynn's Dakotamart, \$481.78, merch for resale; Marco, \$91.36, maint; Meade Co Times, \$680.40, publ; Menards, \$37.98, supp; MDU, \$2633.00, util; Motionsoft, \$450.00, prof fee; Neve's Uniforms, \$84.45, supp; NFPA International, \$165.00, other; Northern Hills Vet Clinic, \$83.32, prof fee; O'Reilly Auto Parts, \$128.33, repair; Owens Interstate Sales, \$238.84, repair; Party Time Plus, \$3686.90, rental-rally; Pete Lien & Sons, \$17.40, supp; Pizza Hut, \$42.00, supp; Print Mark-et, \$920.67, publ; Professional Pavement Products, \$493.40, repair; Public Risk Management, \$385.00, travel; Rushmore Office, \$419.24, supp; Schwans, \$27.53, merch for resale; SD Dept of Military & Veterans, \$1850.00, other; SD Federal Property, \$1100.00, equip; Servall Towel, \$551.29, supp; Sherwin-Williams, \$1938.60 supp; Shopko, \$247.92, supp; Theodore Smith, \$30.00, other; St Francis Alter Society, \$850.00, supp; Street Dept Petty Cash, \$16.85, prof fee; Sturgis Napa, \$755.72, repair; Sturgis Photo & Frames, \$620.00, merch for resale; Town-N-Country Plumbing, \$26.68, supp; US Food Service, \$4145.74, other; Ward Electric, \$131.51, repair; West River Electric, \$514.28, util; Donald Whitehead, \$60.00, other; WOW! Business, \$542.12, util.

**Capital Improvement** – Freeman Electric, \$1250.00, cap imp.

**Liquor** – Amcon Distributing, \$2945.82, cig for resale; BH Chemical, \$910.12, supp; Cask & Cork, \$136.99, off sale liquor; Century Business Products, \$70.00, prof fee; City of Sturgis Water Dept, \$1031.38, util; Coca Cola, \$2949.90, pop for resale; DOT Tool, \$2240.00, merch for resale; Double Star Computing, \$12.50, prof fee; Eagle Sales, \$54,009.55, off sale beer, Ecolab Pest, \$98.03, maint; Fisher Beverage, \$30,903.90, off sale beer; Johnson Western Wholesale, \$90,324.52, off sale liquor; Lynchburg, Hardware, \$68.41, merch for resale; Lynn's Dakotamart, \$8.34, other; M&B Enterprises, \$172.00, snacks for resale; Mobile Mini, \$196.57, supp; MDU, \$11.37, utkl; North Country Business Products, \$25.00, repair; One Way Service Pros, \$615.41, repair; Pepsi Cola, \$2928.00, pop for resale; Pete Lien & Sons, \$159.00, supp; Prairie Berry, \$1605.00, off sale liquor; Print Mark-et, \$61.38, publ; Republic Beverage Co, \$98,266.55, off sale liquor; Rosenbaum Sign, \$1400.00, publ; Rushmore Office, \$26.20, supp; Sand Creek Printing, \$1620.30, supp; Servall Towel, \$156.42, supp; SMRi, \$146.23, pop for resale; The Homeslice Group, \$3324.00, publ; Tour Ice, \$1829.57, merch for resale.

**Water** – A&B Business, \$289.57, supp; A&J Surplus, \$61.18, supp; BH Urgent Care, \$55.00, Butte Electric, \$1141.79, util; Campbell Supply, \$96.62, supp; Caselle, \$382.34, prof fee; CBH Cooperative, \$834.14, supp; Century Business, \$70.00, prof fee; City of Sturgis Water Dept, \$227.54, util; City of Sturgis Water Dept Petty Cash, \$88.99, supp; Crakk Properties, \$18.90, refunds; Dakota Backup, \$134.87, prof fee; Brad Deutsch, \$109.80, prof fee; Double Star Computing, \$12.50, prof fee; Good Construction, \$46.49, refund; Grocery Mart, \$41.81, supp; Hach, \$247.00, supp; Hawkins, \$4713.28, supp; HD Supply Waterworks, \$902.62, supp; Hills Materials, \$178.51, supp; Michael Hughes, \$44.74, refund; Lynn's Dakotamart, \$25.88, supp; Maguire Iron, \$4836.00, repair; Meade Co Times, \$13.45, prof fee; Midcontinent Testing Lab, \$722.00, prof fee; MDU, \$38.03, util; Northern Hills Electric, \$90.90, repair; Owens Interstate Sales, \$32.99, supp; Print Mark-et, \$61.38, publ; Rushmore Office, \$32.86, supp; Servall Towel, \$11.86, repair; SD One Call, \$174.27, prof fee; Robert Telkamp, \$35.30, supp; Town-N-Country Plumbing, \$4.15, supp; TTG Enterprises, \$460.32, repair; USA Blue Book, \$54.34, supp.

**Wastewater** – BH Urgent Care, \$48.00, prof fee; Campbell Supply, \$263.21, supp; CBH Cooperative, \$16.50, supp; Century Business, \$70.00, prof fee; Chain Saw Center, \$38.38, repair; City of Belle Fourche, \$35.51, other; City of Sturgis Water Dept, \$36.18, util; Double Star Computing, \$12.50, prof fee; Energy Lab, \$285.00, prof fee; Jenner Equipment, \$91.27, repair; Owens Interstate Sales, \$61.35, repair; Print Mark-et, \$61.38, publ; Sturgis Napa, \$295.47, repair.

**Sanitary Service** – BH Urgent Care, \$96.00, prof fee; Campbell Supply, \$16.00, supp; CBH Cooperative, \$2812.65, supp; Century Business Leasing, \$195.76, prof fee; Century Business

Products, \$70.00, prof fee; City of Belle Fourche, \$34,948.07, other; Double Star Computing, \$12.50, prof fee; Eye Lab RX, \$225.00, vendor refund; First Interstate Bank, \$430.00, travel; Great Western Tire, \$1021.20, supp; Owens Interstate Sales, \$310.18, repair; Print Mark-et, \$61.50, publ; Rapid Delivery, \$10.80, maint; Sanitation Products, \$417.64, repair; Sturgis Napa, \$135.82.

**Ambulance** – Barrows Electric Service, \$351.15, repair; BH Urgent Care, \$96.00, prof fee; Campbell Supply, \$100.26, supp; Caudill Leavitt Insurance, \$834.00, insur; CBH Cooperative, \$3708.74, supp; Century Business Products, \$125.30, prof fee; City of Sturgis Water Dept, \$429.34, util; CLIA Laboratory Program, \$150.00, prof fee; Coca Cola, \$25.40, supp; Crisis Intervention Shelter, \$5000.00, prof fee; Digital Paging Co, \$1344.00, supp; Double Star Computing, \$72.50, prof fee; Ecolab Pest, \$35.00, supp; Bob Eisenbraun, \$500.00, grp insur; First Interstate Bank, \$846.89, supp; Harvey's Lock Shop, \$23.00, supp; Lynn's Dakotamart, \$215.14, supp; Tammy McCoy, \$84.74, supp; Menards, \$37.98, supp; MDU, \$20.10, util; Motorola, \$7346.00, supp; O'Reilly Auto Parts, \$131.13, supp; Print Mark-et, \$61.38, publ; Purchase Power, \$86.25, supp; Regional Home Medical Equip, \$1357.00, supp; Richter's Tire, \$40.00, supp; Rushmore Office, \$169.41, supp; Jama Shaulis, \$99.02, supp; Shopko, \$77.64, supp; St Francis Alter Society, \$850.00, supp; Sturgis Napa, \$28.36, supp; Western Communications, \$1205.00, supp; WOW! Business, \$168.81, util.

Motion by Waterland, second by Bestgen and carried with Carstensen, Anderson, Bachand, Bestgen, Hersrud, and Waterland voting yes, Potts and Johnston abstaining, to approve the following claims: **General**- Cetec, \$1189.50, prof fee; Johnston Hardware, \$373.14, supp; **Water**- Cetec, \$1859.85, cap imp; Johnston Hardware, \$183.40, supp; **Wastewater**- Johnston Hardware, \$55.86, repair; **Ambulance**- Johnston Hardware, \$388.65, supp.

Motion by Bestgen, second by Hersrud and carried with all members present voting yes to approve the following payroll changes: Recreation – Referees – TBD - \$20 per game; Dillon Loper - \$20/game. Fire Department –Fire Chief – Tom Trigg – restore stipend of \$769.23/pay period; Assistant Fire Chiefs – Shawn Barrows & Brent Lyons – restore stipend of \$218.46/pay period for each. Parks Department – Maintenance Tech 2 – Scott Skinner - \$11.85.

Motion by Waterland, second by Johnston and carried with all members present voting yes to approve second reading of Ordinance 2013-13 – Title 18 – Adult Oriented Business (AOB).

### **ORDINANCE 2013-13**

#### **AN ORDINANCE AMENDING TITLE 18– Zoning**

**BE IT ORDAINED** by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 18– Chapter 18.05.13 – GI-1 General Industrial is amended to read as follows:

#### **TITLE 18.05.13 GI-1 GENERAL INDUSTRIAL**

##### **(A) PURPOSE:**

This industrial district is established to provide areas which the principal use of land is for manufacturing and assembly plants, processing, storage, large warehousing, wholesaling and distribution in which operations are conducted and Adult Oriented Businesses so that noise, odor, dust and glare area and other adverse secondary impacts can be controlled or limited.

No temporary structures may be permitted without approval of the governing body.

In addition, a portion of this zone shall consist of an Adult Overlay District to provide areas where an Adult Oriented Businesses may locate. An Adult Oriented Business, as described in the Definition section of this ordinance, may be allowed to occur within the Adult Overlay District only as a conditional use.

**(B) PERMITTED USES:**

1. Large scale contractor's equipment storage yards.
2. Building material wholesale, storage and distribution centers.
3. Public utility service yards of electrical receiving or transforming stations.
4. Freightling or trucking yards or terminals.
5. Large/small manufacturing facilities.
6. Building material display & sales.
7. New and used car sales.
8. Truck, trailer, u-haul type rental and sales.
9. Farm implement and machinery sales.
10. Motorcycle sales and repair shops.
11. Animal hospitals, pet shops, kennels, etc.
12. Service and repair garages.
13. Manufactured home sales.
14. Wholesale warehouses for the distribution and sale of goods.
15. Large retail outlets or mercantile businesses which require large parking areas in conjunction with larger storage buildings.

**(C) CONDITIONAL USE ON REVIEW:**

The planning commission may authorize special uses and a conditional use permit for the location and operation thereof.

1. Utility Lots subjected to the following requirements:
  1. Platted access not less than sixteen (16) feet in width which may be either dedicated public right of way or utility access easement.
  2. Each lot shall have a width abutting the street of not less than fifty (50) feet.
  3. There shall be a lot area of not less than five thousand (5,000) square feet.
  4. Any buildings shall not cover more than seventy five percent (75%) of the total lot area.

Utilities, public works, wells, water storage, sewer systems, telecommunications stations, electrical substations, high-pressured gas stations, and any other utility services approved by the City Council.

**2. RESIDENTIAL CONDITIONAL USE:**

A "residential conditional use," as described herein, means a temporary residential use that is secondary in nature to a primary permitted use of the structure in the General Industrial District. To be permitted, the applicant must show, that because of its characteristics and location with reference to surroundings, street or highway width, traffic generation or other demands on public services, the use requires special consideration relative to placement at specific locations in the zone to insure that proper integration with other existing or permitted uses in the same zone or zones can be done safely. If such use is approved, then considering the characteristics of the individual site and the proposed location within the zone where proposed, it shall be approved with

conditions to insure proper integration with other existing or permitted uses in the same zone or zones, and that the proposed use is a significant and integral part of the proposed use of the property for a period of 12 months.

Residential use when the secondary in nature to a conforming permitted use in the General Industrial District.

Such secondary use shall not exceed 1000 square feet in size including any designated entry or exit areas. The any area permitted for residential use shall be contained within an existing building or provided for in the plans submitted for new construction in the General Industrial Zone.

**3. ADULT ORIENTED BUSINESS:**

The Planning Commission may recommend and the City Council may authorize an annual Conditional Use for Adult Oriented Business fronting upon and having vehicle access from Mayer Avenue, Sturgis Street, Hansen Drive or Industry Road, and selling merchandise as defined in this title subject to the following requirements:

1. A sexually oriented business shall not be permitted to operate within 300 feet of:
  - a. A single family residence, church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
  - b. A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
  - c. A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within Sturgis which is under the control, operation, or management of Sturgis park and recreation authorities;
  - d. Auditoriums, convention centers, fairgrounds, museums, art or music centers, and theaters.
- b. For the purposes of paragraph 1, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where an adult oriented business is conducted, to the nearest property line of the premises of those facilities or boundaries outlined in paragraph 1. (Compare preceding to #4 below.)
- c. An adult oriented business shall not be permitted to operate within 300 feet of another adult oriented business.
- d. For the purposes of paragraph 3 of this section, the distance between any 2 adult oriented businesses shall be measured in a straight line without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.
- e. Signage: All adult oriented businesses operating within the Adult Overlay District, and all other existing adult oriented businesses uses in operation on September 10, 2012, shall comply with all sign requirements established by Title 30 of the Sturgis City Ordinance, and all sign requirements included within this title, in addition to the following sign requirements:

1. No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from persons walking or driving by the premises;
  2. Window areas shall be covered and opaque.
  3. Any billboards or on premises signs located within the Adult Overlay district shall be subject to the requirements of 5(a) and 5(b) above.
- f. Severability of provisions and applications. If a part of this chapter is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this chapter is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid application.

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(All the following “DEFINITIONS” are recommended to be transferred and added to the “Definitions” section of the entire ordinance, which begins on page 8 of 174. )

## **ARTICLE II DEFINITIONS**

**Adult Entertainment Center:** An enclosed building or a part of an enclosed building, wherein an admission is charged for entrance into the facility, or for food, alcoholic beverages or other beverages intended for consumption within the facility, wherein may be observed or which contains 1 or more coin operated mechanisms which when activated permit a customer to view 1 or more live persons unclothed or in such attire, costume or clothing as to expose to view any portion of the areola of the female breast, or any portion of the male or female pubic hair, anus, cleft of the buttocks, vulva or genitals.

**Adults-Only Bookstore:** An establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined below, or an establishment with a segment or section devoted to the sale or display of such material, for sale to patrons therein.

**Adults-Only Motion Picture Theater:** An enclosed building used regularly and routinely for presenting programs, material distinguished or characterized by an emphasis on matter depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined below, for observation by patrons therein.

**Adult Oriented Business:** An adult entertainment center, adults-only bookstore, adult novelty store, adult video store, or adults-only motion picture theater; where 30% or more of the sales floor, merchandise value or total inventory, merchandise, or performances are characterized by a preponderance of nudity, sexual conduct, sadomasochistic abuse, and/or sexual excitement.

**Adult Overlay District:** The Adult Overlay District shall be composed of any parcel immediately adjacent and having vehicle access from ~~to~~ Mayer Ave., Sturgis Street, Hansen Drive, or Industry Road.

**Nudity:** The showing of the human male or female genitals, pubic area or buttocks, or areola or nipple of the female breast with less than a fully opaque covering, or the depiction of covered male genitals in a discernibly turgid state.

**Sadomasochistic Abuse:** Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

**Sexual Conduct:** Acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's unclothed genitals, pubic area, buttocks or, if such person be a female, her breast.

**Sexual Excitement:** The condition of human male or female genitals when in a state of sexual stimulation or arousal.

**Utility Lot:** Any platted lot used exclusively for the placement of utilities, public works, wells, water storage, sewer systems, telecommunications stations, electrical substations, high-pressured gas stations, and any other utility services approved by the City Council. Such lots are only intended to be improved with the utility and any structures needed in conjunction with the utility.

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Title 18.05.13

BI-1 General Industrial continued -

**(D) AREA REGULATIONS:**

The following requirements shall apply to all uses permitted in this district except as provided in Article V, Section 4.

1. **FRONT YARD:** A minimum setback of 25 feet (25') from property lines shall be required.
2. **SIDE YARD:** A minimum setback of ten feet (10') from property lines shall be required except in the event the building being placed on the property and/or the occupying use qualifies as a High Hazard (Group H) as that term is defined and recognized by the 2006 International Building Code, or subsequent code adopted by the City. In the event the building and/or occupying use qualifies as High Hazard (Group H), a minimum setback of twenty five feet (25') from the property lines shall be required. **WHERE AN INDUSTRIAL BUILDING IS TO BE SERVICED FROM THE SIDE YARD OR REAR YARD AND WHEN NO REAR ALLEY IS PROVIDED, AT LEAST ONE OF THE SIDE YARD SETBACKS SHALL BE A MINIMUM OF THIRTY (30) FEET FOR SIDE SERVICE AND TWENTY FIVE (25) FEET FOR REAR SERVICE.**
3. **REAR YARD:** Where an industrial building is to be serviced from the rear, and an alley way is provided, the service court, rear yard setback or combination thereof shall not be less than thirty feet (30') in depth exclusive of any public right of way. The depth of a rear yard which abuts a residential district or where the building is not serviced from the rear shall be not less than fifteen feet (15') exclusive of the public right of way.
4. **LOT WIDTH:** Each lot shall have a width abutting the street of not less than one hundred feet (100').
5. **LOT AREA:** There shall be a lot area of not less than ten thousand (10,000) square feet.
6. **MAXIMUM LOT COVERAGE:** Permanent main and accessory buildings shall cover not more than seventy five percent (75%) of the total lot area.

**(E) HEIGHT REGULATIONS:**

No building shall be constructed more than four & one-half (4 1/2) stories or 60 feet in height.

**(F) OFF STREET PARKING:**



As regulated in Article V.

All areas utilized for vehicle travel or parking shall be of hard surface material.

**(G) FLOOD PLAIN REQUIREMENTS:**

Any building constructed within this district, on lots located within flood plain areas as shown on the city's firm map shall also be subject to the provisions and requirements contained in the city's flood plain ordinance included in Article VII.

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(The following "original" text begins at page 145 of Title 18.)

**ARTICLE VII**

**SECTION 4 - PROCEDURE FOR AUTHORIZING USES PERMITTED ON REVIEW**

The following procedure is established to integrate property the Uses Permitted on Review with other land uses located in the district. These uses shall be reviewed by the governing body and authorized or rejected under the following procedure:

**A. APPLICATION:**

An application shall be filed with the governing body for review. Said application shall show the location and intended use of the site, the names of the property owners and existing land uses within two hundred (200) feet, and any other material pertinent to the request which the governing body may require.

**1. Application - - Filing.**

Any person desiring a conditional use permit provided for in this chapter may file an application with the Planning and Permitting Department, except that no application shall be filed or accepted if final action has been taken within one year prior thereto on an application requesting the same, or substantially the same permit.

**2. Application - - Information required.**

An application for a conditional use permit shall contain the following information:

- a) Name and address of the applicant and of all persons owning any or all of the property proposed to be used; Clear evidence that the applicant is the owner of the premises involved, or has written proof of permission from the owner or owners that they consent to the use proposed in such application;
- b) Location of subject property (address or vicinity), and the legal description of the property involved;
- c) The nature of the proposed use, indicating the primary business use to be permitted, and purpose for which such building, structure or improvement is to be erected, constructed, or as proposed to be altered, enlarged, moved, occupied or used;
- d) A statement of the nature, condition and development of the property for which the conditional use permit is being applied for and the nature, condition and development of the adjacent uses, buildings and structures;
- e) Provide a site plan drawn to a scale satisfactory to and provide at least 5 copies indicating the area and dimensions of the site or location of the proposed use, and showing the location and dimensions of all structures, yards, walls, fences, parking and loading facilities, landscaping, and other development features;

- f) Describe the dimensions and state of improvement of the adjoining streets and highways providing access to the proposed site of the requested use;
- g) List all other permits-applied for and/or secured in compliance with the provisions of other applicable ordinances for the subject property;
- h) Provide a list, certified to be correct by affidavit or by a statement under penalty of perjury, of the names and addresses of all persons who are shown on the latest available assessment roll of Meade County as owners of the subject parcel of land and as owning property within a distance of 300 feet from the exterior boundaries of the parcel of land to be occupied by the use. One copy of said map shall indicate where such ownerships are located,
- i) Provide Proof satisfactory to the Planning and Permitting Department that water will be available in quantities and pressures required by the Water Ordinance,
- j) Provide such other information as the director may require, including necessary verification of the accuracy of all information, maps and lists submitted.

3. **Application--Burden of proof.**

In addition to the information required in the application by Section 22.56.030 the applicant shall substantiate the following facts:

- a) That the requested use at the location and in the proposed structure will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, or
- b) Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, or
- c) Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare; and
- d) That the proposed site and structure is adequate in size and shape to accommodate the yards, fences, parking and loading facilities, landscaping and other development features required in order to integrate said use with the uses in the surrounding area.
- e) That the proposed site is adequately served by highways or streets of sufficient width, and improved as necessary to carry the kind and quantity of traffic such use would generate, and
- f) That the proposed site is adequately served by other public or private service facilities as are required.
- g) That at no time may any area authorize for a conditional use permit for a secondary residential use exceed 1000 square feet.
- h) That the structure subject to the Conditional Use Permit shall meet all applicable City Ordinances, International Building Codes and State Regulations that apply.

4. **Application--Fee and deposit.**

When an application is filed, it shall be accompanied by the filing fee and deposit as required.

5. **Application--Denial for lack of information.**

An application for a conditional use permit may be denied without hearing if such application does not contain the information required by this chapter.

6. **Application--Public hearing required--Exception.**

In all cases where an application for a conditional use permit is filed in proper form, the public hearing shall be held pursuant to the procedure herein unless the application is withdrawn.

B. PUBLIC HEARING:

"Upon receipt of an application, the Board shall give notice of public hearing within thirty-five (35) days. Such notice of the time and place of such hearing shall be published in the legal newspaper of the City ten (10) days prior to that public hearing. The Board shall consider and decide all applications for uses permitted on review within thirty (30) days of such public hearing and in accordance with the standards provided below."

The Board or City Planning Commission may require the applicant to give notice to all property owners affected by the granting of the relief request. The form and content of the notice shall be as prescribed by the Board and/or Planning Commission.

1. **Grant or denial--Findings and decision at public hearing.**

An application for a conditional use permit may be approved where the information submitted by the applicant and/or presented at public hearing substantiates the following findings:

That the proposed use will be consistent with the adopted general plan for the area.

That the requested use at the location proposed will not:

- Adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area; or
- Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site; or
- Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare; or
- That the proposed use is significant and integral part of the planned primary use of the structure for the next twelve months.
- That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and
- That the proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; and by other public or private service facilities as are required.

The application shall be denied where the information submitted by the applicant and/or presented at public hearing fails to substantiate all such findings that are required by this chapter.

C. RESTRICTIONS:

In the exercise of its approval, the governing body may impose such conditions regarding the location, character or other features of the proposed use or buildings as it may deem advisable in the furtherance of the general purposes of the Ordinance.

1. **Permit--Additional conditions imposed when.**

In approving an application for a conditional use permit, the decision shall state the conditions as necessary to insure that such use will be in accord with the findings. Such Conditions may involve any pertinent-factors affecting the establishment, operation and maintenance of the requested use, including, but not limited to:

- Special yards, open spaces and buffer areas;
- Fences and walls;

- Parking facilities, including vehicular ingress and egress and the surfacing or parking areas and driveways to specified standards;
- Street and highway dedications and improvements, including sidewalks, curbs and gutters;
- Water supply and fire protection in accordance with the provisions of this ordinance;
- Landscaping and maintenance of grounds;
- Regulation of nuisance factors such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic disturbances and radiation;
- Regulation of operating hours for activities affecting normal neighborhood schedules and functions;
- Regulation of signs, including outdoor advertising;
- A specified validation period limiting the time in which development may begin;
- Provisions for a bond or other surety that the proposed conditional use will be removed on or before a specified date;
- A site plan indicating all details and data as prescribed in Title 18.
- Such other conditions as will make possible the development of the proposed conditional use in an orderly and efficient manner and in general accord with all elements of the general plan and the intent and purpose of this Title 18.

D. **ISSUANCE OF PERMIT:**

Unless specifically modified by a conditional use permit, all regulations prescribed in the zone in which such conditional use permit is granted shall apply. Upon completion of the necessary application, hearing and approval of the governing body, the Building Inspector shall issue the building Permit subject to all applicable rules, regulations and conditions.

E. **VALIDITY OF PLANS:**

All approved plans, conditions, restrictions and rules made a part of the approval of the governing body shall constitute certification on the part of the applicant that the proposed use shall conform to such regulations at all times.

F. **TIME LIMIT:**

All applications for Uses Permitted on Review shall be decided within thirty (30) days of the date of public hearing.

1. **Expiration date of unused permits.**

A permit which is not used within the time specified in such permit, or, if no time is specified, within two years after the granting of the permit, becomes null, void and of no effect at all. A permit issued may be extended for a period of not to exceed one year, provided an application requesting such extension is filed prior to such expiration date. In the case of a nonprofit corporation organized to provide low-income housing for the poor or elderly, there may be an additional one-year extension, provided that an application requesting such extension is filed prior to the expiration of the first such extension. In the case of a conditional use permit filed and heard concurrently with a land division, the limits and extensions allowed shall be concurrent and consistent with those of the land division. A conditional use permit shall be considered used, within the intent of this section, when construction or other development authorized by such permit has commenced that would be prohibited in the zone if no permit had been granted.

2. **Expiration following cessation of use.**

A conditional use permit granted by the Council shall automatically cease to be of any force and effect if the use for which such conditional use permit was granted has ceased or has been suspended for a continues period of 12 months.

Dated this 16<sup>th</sup> day of September, 2013.

First reading: 08-19-13

Second reading: 09-16-13

Adopted: 09-16-13

Published: 09-25-13

Effective: 10-16-13

Motion by Hersrud, second by Anderson and carried with all members present voting yes to approve first reading of Ordinance 2013-15 – Title 14 – Parks & Recreation.

Potts introduced the following written resolution and moved its adoption:

**RESOLUTION 2013-51  
TO APPROVE OR DENY A PUBLIC LOTTERY**

**WHEREAS**, the City of Sturgis has by Ordinances enacted by the City Council limited the use of public lotteries within the city to public purposes intended to provide for the benefit and safety of the members of the community, balanced with the purpose to encourage commerce and the development of a healthy and robust business and community atmosphere, and

**WHEREAS**, the Sturgis Public Library has submitted an application to conduct a public raffle within the City of Sturgis beginning on October 7, 2013 and continuing until December 15, 2013 at which time the lottery prize will be awarded by a drawing at 4:00 pm at the Sturgis Public Library, on December 15, 2013, and

**WHEREAS**, the Sturgis Public Library presented its application to conduct this lottery to the City Finance Office on September 5, 2013 and seeks to commence and seeks to begin to sell such raffle tickets on October 7, 2013, and

**WHEREAS**, the request of the Sturgis Public Library to have approval to conduct this lottery has met all the requirements of City Ordinance, all the requirements of state law and has met all the administrative requirements of the City Finance Office in submitting its application,

**NOW, THEREFORE, IT IS HEREBY RESOLVED** by the Sturgis City Council that the application of the Sturgis Public Library to conduct a public lottery/raffle in the City of Sturgis is hereby

  X   Approved, with lottery ticket sales to be conducted at the stated times forth above and as stated in the terms of the lottery application, for the reason that the expected public benefits intended to be accomplished by the Lottery ordinance are present.

       Denied, with no lottery sales to be permitted as requested, for the reason that the expected public benefits intended to be accomplished by the Lottery ordinance are not present.

RESOLVED, this 16<sup>th</sup> day of September, 2013.

Published: 09/25/2013  
Effective: 10/16/2013

Johnston seconded the motion for the adoption of the foregoing resolution with all members present voting yes and the resolution was declared passed and adopted.

Johnston introduced the following written resolution and moved its adoption:

**RESOLUTION 2013-52  
TO APPROVE OR DENY A PUBLIC LOTTERY**

**WHEREAS**, the City of Sturgis has by Ordinances enacted by the City Council limited the use of public lotteries within the city to public purposes intended to provide for the benefit and safety of the members of the community, balanced with the purpose to encourage commerce and the development of a healthy and robust business and community atmosphere, and

**WHEREAS**, the Sturgis Motorcycle Museum has submitted an application to conduct a public raffle within the City of Sturgis beginning on October 10, 2013 and continuing until August 9, 2014 at which time the lottery prizes will be awarded by a drawing at 2:00 pm at 999 Main St, Sturgis, on August 9, 2014, and

**WHEREAS**, the Sturgis Motorcycle Museum presented its application to conduct this lottery to the City Finance Office on September 6, 2013 and seeks to commence and seeks to begin to sell such raffle tickets on October 10, 2013, and

**WHEREAS**, the request of the Sturgis Motorcycle Museum to have approval to conduct this lottery has met all the requirements of City Ordinance, all the requirements of state law and has met all the administrative requirements of the City Finance Office in submitting its application,

**NOW, THEREFORE, IT IS HEREBY RESOLVED** by the Sturgis City Council that the application of the Sturgis Motorcycle Museum to conduct a public lottery/raffle in the City of Sturgis is hereby

  X   Approved, with lottery ticket sales to be conducted at the stated times forth above and as stated in the terms of the lottery application, for the reason that the expected public benefits intended to be accomplished by the Lottery ordinance are present.

       Denied, with no lottery sales to be permitted as requested, for the reason that the expected public benefits intended to be accomplished by the Lottery ordinance are not present.

RESOLVED, this 16<sup>th</sup> day of September, 2013.

Published: 09/25/2013  
Effective: 10/16/2013

Waterland seconded the motion for the adoption of the foregoing resolution with all members present voting yes and the resolution was declared passed and adopted.

Motion by Bachand, second by Hersrud and carried with all members present voting yes to deny a vendor fine refund to Local Motors.

Motion by Potts, second by Bestgen and carried with all members present voting yes to approve the Use of City Property for First Interstate Bank's Neighbor Feeding Neighbor Outdoor Luncheon on October 11, 2013.

Waterland introduced the following written resolution and moved its adoption:

**RESOLUTION 2013-53**

**A RESOLUTION AUTHORIZING THE MAYOR TO  
SIGN AMBULANCE SERVICE AGREEMENT**

WHEREAS, the City of Sturgis desires to enter into contract with Meade County for the purpose of operating a jointly owned Ambulance Service for the residents of the City of Sturgis and Meade County, and

WHEREAS, the Ambulance Service is a vital service provided to the residents of Sturgis and parts of Meade County, and

WHEREAS, Meade County has agreed that the City of Sturgis should be the operating entity of the jointly owned service, and

WHEREAS, the residents of the City of Sturgis and Meade County will benefit greatly by continuing to share resources and reduce costs through the joint ownership of Ambulance Service.

NOW THEREFORE, the Mayor of Sturgis, Mark Carstensen, is hereby authorized to execute said approved Ambulance Service Agreement for the above stated purposes.

Dated this 16<sup>th</sup> day of September, 2013.

Published: 09/25/2013

Effective: 10/16/2013

Hersrud seconded the motion for the adoption of the foregoing resolution with all members present voting yes and the resolution was declared passed and adopted.

Bachand introduced the following written resolution and moved its adoption:

**RESOLUTION 2013 – 54**

**A RESOLUTION TO AUTHORIZE THE CITY FINANCE OFFICER TO SUBMIT  
TO THE MEADE COUNTY AUDITOR THE TAX LEVY REQUEST FOR  
THE CITY OF STURGIS 2014 BUDGET**

WHEREAS, the City of Sturgis is a Municipal Corporation as defined under South Dakota law, and

WHEREAS, the City of Sturgis is required each year to submit a tax levy request to the office of County Auditor as part of the annual municipal budget process, and

WHEREAS, The City of Sturgis has prepared the 2014 Budget Ordinance and passed the second reading of the Budget Ordinance for calendar year 2014, and

WHEREAS, the 2014 Budget as approval of the City Council for second reading will require an additional \$56,766 in tax revenue, or an increase of 2.1%, and

WHEREAS, the city Budget request to the County Auditor will be for a tax levy sufficient to generate revenue of \$2,759,902, and

WHEREAS, the allowed growth factor as determined by the County Auditor is the figure of 0.727%, and

WHEREAS, the allowable CPI factor as determined by the County Auditor is up to 2.1%.

NOW THEREFORE AS SET FORTH HEREIN, IT IS HEREBY RESOLVED that the City Finance Officer is authorized to certify and submit the 2014 City Budget and tax levy request to the Meade County Auditor, a CPI increase of 2.1%, to correctly fund the 2014 Budget for the City of Sturgis, consistent with the requirements of SDCL Chapter 9-21 and Chapter 10-13.

Dated this 16th day of September, 2013.

Published: 9-25-13  
Effective: 10-16-13

Hersrud seconded the motion for the adoption of the foregoing resolution with all members present voting yes and the resolution was declared passed and adopted.

Any other business:  
None

Motion by Waterland, second by Johnston and carried with all members present voting yes to go into executive session for personnel, contracts, and litigation at 7:45 pm.

Motion by Waterland, second by Johnston and carried with all members present voting yes to return to regular session at 10:19 pm.

Motion by Johnston, seconded by Waterland and carried with all members present voting yes to adjourn the meeting at 10:19 pm.

ATTEST: \_\_\_\_\_  
Fay Bueno, Finance Officer

APPROVED \_\_\_\_\_  
Mark Carstensen, Mayor

Published once at the total approximate cost of \$310.91.